

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

U.S. DISTRICT COURT
DISTRICT OF PUERTO RICO
SAN JUAN, P.R.

UNITED STATES OF AMERICA,
Plaintiff,

v.

LUIS RAMON CASELLAS,
Defendant.

2015 JUL 15 AM 11:2

CRIM. NO. 14-715 (CCC)

PLEA AND FORFEITURE AGREEMENT

(Pursuant to Federal Rules of Criminal Procedure 11(c)(1)(A) & (B))

TO THE HONORABLE COURT:

COMES NOW the United States of America, by and through its attorneys, Rosa Emilia Rodríguez-Vélez, United States Attorney for the District of Puerto Rico, José Ruiz-Santiago, Chief of the Criminal Division, Julia M. Meconiates, Assistant United States Attorney, and Daniel P. Butler, Trial Attorney, Fraud Section, Criminal Division, United States Department of Justice, and the defendant, **LUIS RAMON CASELLAS**, and the defendant's counselor, Lydia Lizarribar-Masini, Esq., pursuant to Rule 11(c)(1)(A) and (B) of the Federal Rules of Criminal Procedure, and state to this Honorable Court, that they have reached an agreement, the terms and conditions of which are as follows:

1. COUNTS TO WHICH DEFENDANT PLEADS GUILTY

The defendant will plead guilty to Counts One through Three and Count Five of the Indictment, which charge, in substance, as follows:

**COUNTS ONE THROUGH THREE
Bulk Cash Smuggling into the United States
(31 U.S.C. § 5332(a)(1))**

Between on or about July 16, 2013, and on or about August 15, 2013, in the District of Puerto Rico and elsewhere, and within the jurisdiction of this Court, **LUIS RAMON CASELLAS**, the defendant herein, with intent to evade a currency reporting requirement under Title 31, United States Code, Section 5316(a)(1), knowingly concealed more than \$10,000 in United States currency in any conveyance or other container, and transported and transferred and attempted to transport and transfer such currency from a place outside the United States, that is, Afghanistan, to a place within the United States, that is, Puerto Rico. All in violation of Title 31, United States Code, Section 5332(a)(1).

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COUNT FIVE
Theft of Government Property
(18 U.S.C. § 641)

Between on or about April 17, 2013, and on or about September 10, 2013, in the District of Puerto Rico and elsewhere and within the jurisdiction of this Court, LUIS RAMON CASELLAS, the defendant herein, willingly and knowingly did embezzle, steal, purloin, and convert to his use and the use of another a thing of value of the United States, or any department or agency thereof, that is, government property, with an aggregate value exceeding the sum of \$1,000, that is, approximately \$6,302.60. In violation of Title 18, United States Code, Section 641.

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2. MAXIMUM PENALTIES

The maximum statutory penalty for Counts One through Three is a term of imprisonment of five (5) years, a term of supervised release of not more than three (3) years, a fine not to exceed \$250,000 and forfeiture.

The maximum statutory penalty for Count Five is a term of imprisonment of five (5) years, a term of supervised release of not more than three (3) years, and a fine not to exceed \$250,000.

3. SPECIAL MONETARY ASSESSMENT

At the time of the signing of this plea agreement, the defendant will pay a special assessment of \$100.00 per count, as required by Title 18, United States Code, Section 3013(a).

4. ADVISORY NATURE OF THE SENTENCING GUIDELINES AND ITS APPLICABILITY

The defendant is aware that pursuant to the decisions issued on January 12, 2005, by the Supreme Court of the United States in the cases of United States v. Booker and United States v. Fanfan, 543 U.S. 220 (2005), the United States Sentencing Guidelines (“Sentencing Guidelines”) are no longer mandatory and must be considered effectively advisory. In addition, defendant recognizes that parole has been abolished.

5. FINES AND/OR RESTITUTION

The Court may, pursuant to Section 5E1.2(i) of the Sentencing Guidelines, Policy Statements, Application, and Background Notes, order the defendant to pay a fine sufficient to

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reimburse the government for the costs of any imprisonment and/or supervised release ordered. Furthermore, the defendant agrees to be bound by the restitution amount imposed by the Court and to provide financial statements as requested by the United States Probation Office. Defendant expressly recognizes that the amount of restitution may be materially higher than any stipulated loss recognized for purposes of sentencing.

6. RULE 11(c)(1)(B) WARNINGS

The defendant is aware that the defendant's sentence is within the sound discretion of the sentencing judge, but the same may be imposed following the United States Sentencing Guidelines, Policy Statements, Application, and Background Notes as advisory to the imposition of sentence. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offenses to which the defendant pleads guilty. If the Court should impose a sentence up to the maximum established by statute, the defendant cannot, for that reason alone, withdraw a guilty plea, and will remain bound to fulfill all of the obligations under this plea agreement. Moreover, the United States reserves the right to carry out its responsibilities under the sentencing guidelines. Specifically, the United States reserves the right: (a) to bring its version of the facts of this case including its file and any investigative files to the attention of the probation office in connection with that office's preparation of a pre-sentence report; (b) to dispute sentencing factors or facts material to sentencing; (c) to seek resolution of such factors or facts in conference with opposing counsel and the probation office. The defendant acknowledges that he is aware that parole has been abolished.

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7. SENTENCING GUIDELINES CALCULATIONS

Although the Sentencing Guidelines are now advisory in nature, the sentencing court, in imposing sentence, is required to consider the guidelines "sentencing range established for the applicable category of the offense committed by the defendant." United States v. Booker, 543 U.S. 220 (2005). The parties agree to recommend the following guideline calculations:

COUNTS ONE THROUGH THREE (31 U.S.C. § 5332(a)(1)) USSG § 2S1.3	
Base Offense Level, § 2S1.3(a)(2)	6
Specific Offense Characteristic, Value of the Funds, from the table in § 2B1.1(b)(1)(E) (more than \$70,000 but less than \$120,000)	+8
Specific Offense Characteristic: Offense involved bulk cash smuggling, § 2S1.3(b)(1)(B)	+2
Specific Offense Characteristic: Offense part of pattern of unlawful activity involving more than \$100,000 in 12-month period, § 2S1.3(b)(2)	+2

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Acceptance of Responsibility, § 3E1.1(b)	-3
Stipulated Total Offense Level	15
Imprisonment Range, Assuming Criminal History Category I	18-24 Months

COUNT FIVE (18 U.S.C. § 641) USSG § 2B1.1	
Base Offense Level, § 2B1.1(a)(2)	6
Specific Offense Characteristic, Value of the Funds, from the table in § 2B1.1(b)(1)(B) (more than \$5,000 but less than \$10,000)	+2
Specific Offense Characteristic: Substantial amount of the fraud scheme committed outside the United States, § 2B1.1(b)(10)(B)	+2
Acceptance of Responsibility, § 3E1.1(a)	-2
Stipulated Total Offense Level	8
Imprisonment Range, Assuming Criminal History Category I	0-6 Months

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The parties agree that these counts shall be grouped together into a single Group, under USSC § 3D1.2, and the offense level applicable to that Group is that for the Bulk Cash Smuggling Offenses, pursuant to USSC § 3D1.3.

8. CRIMINAL HISTORY CATEGORY

The parties do not stipulate the defendant's Criminal History Category. Therefore, the parties recognize that the applicable imprisonment range may be materially higher than that expressed above.

9. SENTENCE RECOMMENDATION

The parties agree that at sentencing the defendant may argue for a sentence of imprisonment of eighteen (18) months, while the United States may argue for a sentence of imprisonment not greater than twenty-four (24) months. The parties expect that defendant's Criminal History Category will be I, although no stipulation as to Criminal History is made herein. The defendant agrees that a sentence within the Guidelines range of 18-24 months is reasonable pursuant to Title 18, United States Code, Section 3553(a).

10. WAIVER OF APPEAL

The defendant knowingly and voluntarily waives the right to appeal the judgment, sentence, and order of forfeiture in this case, provided that the Court sentences him to a term of imprisonment within the sentencing range set forth in Paragraph 9 of this plea agreement, or to a lesser sentence. The defendant, however, retains the right to raise a claim of ineffective

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assistance of counsel, and, as such, is not precluded from raising such a claim in the District Court or in the appellate courts.

11. DISMISSAL OF REMAINING CHARGES

The United States will move to dismiss the remaining charges against the defendant in the Indictment, pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure.

12. ADJUSTMENTS OR DEPARTURES

The United States and the defendant agree that no further adjustments or departures shall be requested by the parties and that this agreement considers relevant factors set forth in Title 18, United States Code, Section 3553(a). The parties further agree that any request for a term of imprisonment outside of sentencing recommendation in Paragraph 9 shall constitute a material breach of this Plea Agreement.

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13. JURISDICTIONAL LIMITS OF PLEA AGREEMENT

It is specifically understood by the defendant that this plea agreement does not extend to or bind other federal districts, federal civil and/or State or Commonwealth of Puerto Rico law enforcement authorities.

14. SATISFACTION WITH ATTORNEY

The defendant represents to the Court that defendant is satisfied with defendant's attorney, Lydia Lizarribar-Masini, Esq., and hereby indicates that counsel has rendered effective legal assistance.

15. RIGHTS SURRENDERED BY DEFENDANT THROUGH GUILTY PLEA

Defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. Defendant understands that the rights of criminal defendants include the following:

- a. If the defendant had persisted in a plea of not guilty to the charges, defendant would have had the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if the defendant, the United States and the judge agree.
- b. If a jury trial is conducted, the jury would be composed of twelve lay persons selected at random. The defendant and the defendant's attorney would assist in

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selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree, unanimously, before it could return a verdict of either guilty or not guilty. The jury would be instructed that the defendant is presumed innocent and it could not convict the defendant unless, after hearing all the evidence, it was persuaded of the defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately.

c. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established the defendant's guilt beyond a reasonable doubt.

d. At a trial, the United States would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those witnesses and defendant's attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence on defendant's own behalf. If the witnesses for the defendant would not appear voluntarily, defendant could require their attendance through the subpoena power of the Court.

e. At a trial, the defendant could rely on the privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from defendant's refusal to testify. If the defendant desired to do so, the defendant could testify on defendant's own behalf.

16. FOREFEITURE AGREEMENT

In exchange for the above-mentioned terms and sentence recommendation, Defendant agrees as follows:

a. To surrender and forfeit to the United States and to relinquish all rights, title and interest defendant may have in the sum of \$113,050. This sum of money represents property involved in the offenses and shall be forfeited to the United States pursuant to Title 21 United States Code, Section 853(a)(2)(A), Title 31, United States Code, Section 5332(b)(2), and Title 28, United States Code, Section 2461(c).

b. In agreeing to the forfeiture of the amount stated above, defendant acknowledges that such forfeiture is not grossly disproportional to the gravity of the

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offense conduct to which defendant is pleading guilty.

c. Defendant understands that upon the signature of this Plea and Forfeiture Agreement, all rights and interests in the money described subparagraph (a) above shall be vested in the United States and defendant will have waived any judicial or administrative claims that defendant may have regarding the forfeiture of said money, including any claim of double jeopardy. The defendant agrees to sign any additional documents that defendant may be required to sign in order to complete the forfeiture proceedings regarding the forfeiture of the above-described money before sentencing.

d. Defendant further agrees to assist in the location of any substitute property or assets that may be subject to forfeiture.

e. The defendant waives his right to notice and waives his right to file a claim in any administrative or civil judicial forfeiture action.

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17. STIPULATED VERSION OF FACTS

The accompanying Stipulated Version of Facts signed by the defendant is hereby incorporated into this plea agreement. Defendant adopts the Stipulated Version of Facts and agrees that the facts therein are accurate in every respect and that, had the matter proceeded to trial, the United States would have proven those facts beyond a reasonable doubt. Further, the defendant agrees that said statement of facts will be used by the sentencing judge in determining the application of any sentencing guidelines in the instant case.

18. ENTIRETY OF PLEA AGREEMENTS AND AMENDMENTS

The United States and the defendant acknowledge that the above-stated terms and conditions constitute the entire plea agreement between the parties and deny the existence of any other terms and conditions not stated herein. No additional promises, terms or conditions will be entered unless in writing and signed by all parties.

19. VOLUNTARINESS OF PLEA

It is understood that defendant is entering into this plea agreement without compulsion, threats, or any other promises from the United States Attorney or any of her agents. The defendant acknowledges that no threats have been made against the defendant and that the defendant is pleading guilty freely and voluntarily because the defendant is, in fact, guilty.

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20. BREACH AND WAIVER

Defendant understands and agrees that if defendant breaches the plea agreement, defendant may be prosecuted and sentenced for all of the offenses that defendant may have committed. Defendant agrees that if he breaches this plea agreement, the government reserves the right to take whatever steps are necessary to nullify the plea agreement, including the filing of a motion to withdraw the plea agreement and/or set aside the conviction and sentence. Defendant also agrees that if he is in breach of this plea agreement, defendant is deemed to have waived any objection to the reinstatement of any charges under the indictment, information, or complaint which may have previously been dismissed or which may have not been previously prosecuted. Defendant further agrees that if he is in breach of this plea agreement, defendant is deemed to have also waived any objection to the filing of any additional charges against him. If the defendant withdraws from this agreement prior to pleading guilty to the charges identified in paragraph 1 above or otherwise fails to comply with any of the terms of this plea agreement, the United States will be released from its obligations under this agreement, and the defendant agrees and understands that: (1) he thereby waives any protection offered by Section 1B1.8(a) of the Sentencing Guidelines, Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence, and that any statements made by him as part of plea discussions, any debriefings or interviews, whether made prior to or after the execution of this agreement, will be admissible against him without limitation in any civil or criminal proceeding; and (2) the defendant stipulates to the admissibility and authenticity, in any case brought by the United States in any way related to the offense charged, of any documents provided by the defendant or his representative to the United States.

[signatures on following page]

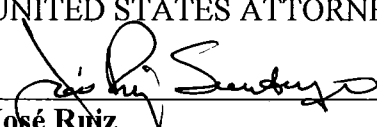
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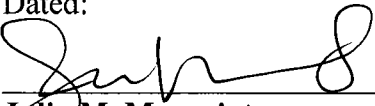
RESPECTFULLY SUBMITTED

ROSA EMILIA RODRÍGUEZ-VELEZ
UNITED STATES ATTORNEY



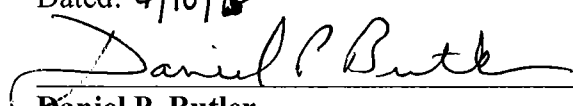
José Ruiz
Chief, Criminal Division

Dated:



Julia M. Meconiates
Assistant United States Attorney

Dated: 7/10/15



Daniel P. Butler
Trial Attorney, Fraud Section

Dated: 7-14-15



LUIS RAMON CASELLAS

Defendant

Dated: 7/15/15



Lydia Lizarribar-Masini, Esq.

Attorney for Defendant

Dated: 7/15/15


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PAGE 10**UNDERSTANDING OF RIGHTS**

I have consulted with my counsel and fully understand all my rights with respect to the Indictment pending against me. Further, I have consulted with my attorney and fully understand my rights with respect to the provision of the Sentencing Guidelines, Policy Statements, Application, and Background Notes which may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorneys. I fully understand this agreement and I voluntarily agree to it.

Date: 7/15/15

LUIS RAMON CASELLAS
Defendant

I am the attorney for **LUIS RAMON CASELLAS**. I have fully explained to the defendant the defendant's rights with respect to the pending Indictment. Further, I have reviewed the provisions of the Sentencing Guidelines, Policy Statements, Application, and Background Notes, and I have fully explained to the defendant the provisions of those guidelines which may apply in this case. I have also explained to the defendant the advisory nature of the Sentencing Guidelines. I have carefully reviewed every part this plea agreement with the defendant. To my knowledge, the defendant is entering into this agreement is voluntarily, intelligently and with full knowledge of all the consequences of his plea of guilty.

Date: 7/15/15

Lydia Lizarribar-Masini, Esq.,

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STIPULATED VERSION OF FACTS
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STIPULATED VERSION OF FACTS

In conjunction with the submission of the accompanying plea agreement in this case, the United States of America submits the following statement setting forth the stipulated facts leading to the defendant's acceptance of criminal responsibility for Defendant's violations of Title 31, United States Code, Section 5332(a)(1) and Title 18, United States Code, Section 641.

At all relevant times, **LUIS RAMON CASELLAS** (hereinafter "Defendant"), was an Army Reservist Staff Sergeant on active status based at Fort Buchanan in Guaynabo, Puerto Rico. In April 2013, Defendant was deployed by the Army to Afghanistan, where he was assigned to the Defense Logistics Agency, Expeditionary Disposal Remediation Team (EDRT), and was based at Kandahar Airfield in Afghanistan. As part of his duties with the EDRT, Defendant was responsible for helping to break down smaller bases in preparation for the withdrawal of United States military forces from Afghanistan. These duties included, among others, retrieving U.S. government property for future use and selling as scrap to Afghan contractors that which was deemed by the military as unsuitable for reuse. Between June 17, 2013 and August 9, 2013, Defendant and two Army Specialists went to Forward Operating Base (FOB) Wolverine in Afghanistan, to help break down that base. Defendant was the leader of the three-man team. While this team was at the FOB, Defendant wrongfully took for his own use tools and equipment, including laptops, belonging to the U.S. Department of Defense. On July 16 and 18, 2013, Defendant sent approximately eight boxes from the FOB through the U.S. Postal Service addressed to his wife in Puerto Rico. Contained within at least one of those boxes was some of the government property wrongfully taken by Defendant. Also hidden within at least one of those boxes and undeclared was U.S. currency totaling \$50,500.

Further, on August 10 and 15, 2013, Defendant sent two boxes from Kandahar Airfield through United Parcel Service addressed to his wife in Puerto Rico. Both boxes were marked as "Gifts for family" with a fraudulent declared value, respectively, of \$700 and \$400. The first box contained some of the wrongfully taken government property, as well as \$41,750 in U.S. currency hidden in the box. The second box contained \$20,800 in U.S. currency hidden in the box among personal items. These boxes were intercepted by U.S. Customs in Louisville, Kentucky.

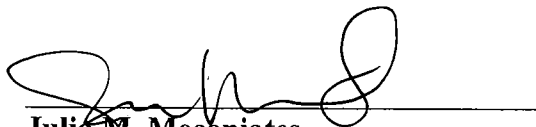
The total amount of cash smuggled from Afghanistan to the United States between July 2013 and August 2013 was approximately \$113,050. The total value of the government property wrongfully taken was approximately \$6,302.69.

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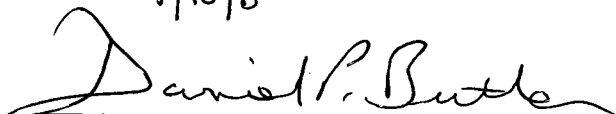
STIPULATED VERSION OF FACTS
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Should the case have proceeded to trial, the government would have proven the foregoing beyond a reasonable doubt through testimony from civilian, military and law enforcement witnesses and relevant documents. Full discovery has been provided.



Julia M. Meconiates
Assistant United States Attorney

Dated: 7/10/15



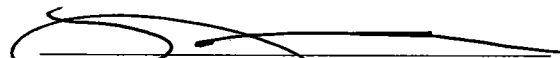
Daniel P. Butler
Trial Attorney
Fraud Section, Criminal Division
United States Department of Justice

Dated: 7-15-15



LUIS RAMON CAELLAS
Defendant

Dated: 7/15/15



Lydia Lizarribar-Masini, Esq.
Attorney for Defendant

Dated: 7/15/15